IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

HON'BLE Mr. JUSTICE R. SUBHASH REDDY

Writ Petition No.24984 of 1997

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Dated: January 24, 2007

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Between:

Smt. Dr. Tadepalli Atchutam, W/o. T. Vedantam,
Aged 69 years, R/o.10-1-13, Asilmetal Junction,
Visakhapatnam-3.

… Petitioner

And

The Commissioner of Municipalities,
Kakinada, East Godavari District, and others.

… Respondents

Order:

This Writ Petition has been filed questioning the action of the respondents in not laying roads in the sites earmarked for roads in the layout plan.

2. In the affidavit filed in support of the Writ Petition, it is stated that an extent of Ac.1.52 cents of land in S.No.133 of Ramanayyapeta

village, Kakinada Taluk, East Godavari District, was registered in the name of Chundru Chidambareswara Rao, as Government Dry in village accounts and as T.S.No.2/2-A of Madhanagar in Kakinada Municipality. The case of the petitioner is that he had bought ten sites admeasuring 4130 Sq. yards under registered sale deeds. It is stated that he purchased the said site with a condition in the sale deeds that the land earmarked for roads in the approved layout plan has to be handed over to the Municipality as per rules. His grievance is that though layout plan is sanctioned and roads are earmarked, the Municipality is not laying the roads and the same is resulting in encroachments by third parties.

3. First respondent has filed counter affidavit stating that though sanction was given in layout plan No.54/53 in T.S.Nos.1/7, 1/8 and 2 located at Block-I of 2nd ward within Kakinada Municipal limits, roads have not been formed as per the approved layout of L.P.No.54/53, i.e. road abutting Plot Nos.62 to 89. It is stated that the original owners and also the present plot owners failed to hand over the land earmarked for roads as per the approved layout plan.

4. Though it is submitted by learned counsel for the petitioner that it is the duty of the Municipality to form roads by taking action against encroachers, but it is to be seen that as per the approved layout plan, the petitioner himself did not comply the conditions laid down therein. He failed to demarcate the lands and did not handover the land earmarked for roads to enable the Municipality to lay roads therein.

5. As per the provisions of the Andhra Pradesh Municipalities Act, 1965, rights vest with the Municipality only after the owners who obtain approval of the layout comply with requisite conditions. As is clear

from the counter affidavit, the owner who forms the layout at the first instance has to form metal roads and handover the same to the Municipality for maintenance; however, the petitioner did not demarcate the roads on the ground and also failed to form metal roads. In that view of the matter, no direction as sought for can be issued.

6. The Writ Petition is devoid of merits and is accordingly dismissed. No order as to costs.

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JUSTICE R. SUBHASH REDDY.

January 24, 2007
MRR